

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

LLS AMERICA, LLC,

Debtor,

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

v.

1418490 ONTARIO, LTD., et al,

Defendants.

NO: CV-12-482-RMP

Bankr. Case No. 09-06194-PCW11

Adv. Proc. No. 11-80295

DEFAULT JUDGMENT

THIS MATTER came on consideration upon the Motion of Plaintiff for
Entry of Default and Judgment against Defendant Cheryl Birner, and it appearing
from the file and records of this Court in this cause that the default judgment
(Bkcy. Dkt. No. 167) entered by the Bankruptcy Court should be deemed proposed

1 findings of fact and conclusions of law, and that entering final default judgment in
2 conformity with the default judgment entered by the Bankruptcy Court is
3 appropriate,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the
5 Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11
6 Trustee for LLS America, LLC, shall have a judgment against Defendant Cheryl
7 Birner, as follows:

8 1. Monetary Judgment in the amount of CAD \$12,500.00, pursuant to 11
9 U.S.C. § 550 and RCW 19.40.071;

10 2. Transfers in the amount of CAD \$12,500.00 made to the Defendant
11 Cheryl Birner within four years prior to the Petition Filing Date are hereby avoided
12 and Plaintiff may take all necessary action to preserve the same, pursuant to 11
13 U.S.C. §§ 544, 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and
14 RCW 19.40.071;

15 3. All said transfers to Defendant Cheryl Birner are hereby set aside and
16 Plaintiff shall be entitled to recover the same, or the value thereof, from Defendant
17 Cheryl Birner for the benefit of the estate of LLS America, pursuant to 11 U.S.C.
18 §§ 544, 550 and 551;

19 4. All proofs of claim of the Defendant Cheryl Birner which have been filed
20 or brought or which may hereafter be filed or brought by, on behalf of, or for the

1 benefit of any of the Defendant Cheryl Birner or her affiliated entities, against the
2 Debtor's estate, in this bankruptcy or related bankruptcy proceedings, are hereby
3 disallowed and subordinated to the monetary judgment granted herein and
4 Defendant Cheryl Birner shall not be entitled to collect on her proof of claim
5 (Claim No. 177-1) until the monetary judgment is satisfied by Defendant Cheryl
6 Birner in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

7 5. A constructive trust is hereby established over the proceeds of all transfers
8 in favor of the Trustee for the benefit of the estate of LLS America; and

9 6. Plaintiff is hereby awarded costs (i.e. filing fees) in the amount of \$250.00
10 USD, for a total judgment of CAD \$12,500.00, plus \$250.00 USD, which shall
11 bear interest equal to the weekly average of one-year constant maturity (nominal)
12 treasury yield as published by the Federal Reserve System.

13 The District Court Clerk is directed to enter this Order, enter judgment as
14 outlined above, and provide copies to counsel and to Judge Patricia C. Williams.

15 DATED this 1st day of November 2012.

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17
18 s/ Rosanna Malouf Peterson
19 ROSANNA MALOUF PETERSON
20 Chief United States District Court Judge